

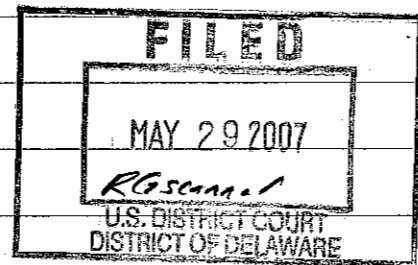
IN THE UNITED STATES DISTRICT COURT
For THE DISTRICT OF Delaware

Bruce L. Waples
Petitioner.

v.

THOMAS CARROLL
Warden, And Attorney
General of the State
of Delaware
Respondents.

Civil Action NO. 07-200-Gms



Habeas Corpus 28 USC § 2254 (Amended)

Grounds ONE: Reasonable Doubt Instruction

Simpson v. Matesanz 29 F. Supp. 2d 11

The reasonable doubt jury instruction violated the defendant's Sixth Amendment right to a fair trial where the instruction which stated that jury must be sure of defendant's guilt to a "moral certainty" of same degree juror's use to make "decisions of importance" in their own lives, and stated that juror's should give defendant benefit of the doubt if they had any "serious unanswered questions" about his guilt. The defective reasonable doubt jury instruction was held to be a "structural defect" which defies analysis by "harmless error" and required granting federal ~~habeas~~ ^{habeas} relief.

Ground two: Suppression of Evidence

Bond v. US, 1 F.3d 631

Trial Counsel's Failure to file motion to suppress evidence is properly raised on petition for habeas relief instead of direct appeal

Ground Three: Failed To Prepare For Trial

United States v. Tucker, 716 F.2d 576

Trial Counsel's overall performance, failure to prepare for trial, properly cross-examine government witnesses, impeach government witness with inconsistent prior statements, failed to call corroborating witnesses to support defendant's testimony, deprived defendant of a fair trial and constitutes ineffective assistance of counsel

Ground Four: Closing Arguments Related ineffectiveness

Agard v. Portuondo, 159 F.3d 98

The court found that "Prosecutor's closing argument comments suggesting that defendant's credibility was less than that of prosecution witnesses, solely because he attended entire trial while witnesses were present only during their own testimony, was not harmless error and warranted habeas corpus relief"

Ground Five: Insufficient Evidence

Reyes v. State 819 A2d 305

Jury @ 31.3(1) An essential ingredient of the right to trial by jury is for jury verdicts to be based solely on the evidence presented at trial U.S.C.A. Const. Amend 6

Ground 5.V: Presudicial Remarks

Seaton v. State 397 A2d 540

Criminal Law 110 @ 700(1) (Formerly 116 K 700)

"Although prosecutor operates within an adversary system, his duty is to seek justice, not merely convictions; that same duty requires prosecutor to refrain from legally objectionable tactics calculated to arouse prejudices of jury

NOTE: Prosecutor Martin Congrove stated to the jury that i knocked out Correctional officer tooth out. (There was no evidence)

Ground Seven: Hearsay Evidence

Dembry v. State 695 A2d 1152

110K 741(1) K, In General

Requirement that statement against interest be corroborated by other evidence in the case in order to be admissible under exception Cont

to hearsay rule is a preliminary question as to admissibility of statement: trial judge must find only that sufficient corroborating circumstances exist and then permit jury to make ultimate determination of weight to be given to such evidence Rule of Evd Rule 804(b)(3)

Ground Eight: Planerko-Prosecutor's Remark

Wainwright v. State 504 A2d 1100

Miller v. State Quoting SANDER v. State Del sup 602
A2d 623 624 (1984)

We emphasized in Miller the important Rule of Prosecutor. The Vouching By The prosecutor As to the Credibility of A witness For the State is A Special Concern Because jurors may easily interpret vouching By the prosecutor as an official endorsement of the witness and in Doing so overlook important aspects of the witness Credibility
NOTE: Prosecutor may not vouch for the credibility of Government witnesses

Ground Nine: Ineffective Assistance of Counsel

Tucker v. Prelesnik, 181 F3d 747 (6th Cir 1999)

Defense Counsel's failure to move for A Continuance to obtain medical records of assault victim which would have impeached his ability to remember, failed

to obtain and use evidence of earlier, contradictory statements by victim which would have cast serious doubt about the victim's credibility. Constitutes ineffective assistance of counsel

Ground ten: Plain Error- Conduct of Counsel

US. V. Washington 263 F Supp 2d 413

Prosecutorial misconduct to which contemporaneous objection are made is reviewed for harmless error, but prosecutorial misconduct to which no objection is raised during trial is reviewed for plain error

Fed. Rules Cr Proc. Rule 52(b) 28USCA

Ground eleven: Prosecutorial misconduct

US. V. Washington 263 F Supp 2d 413

Prosecutor improperly vouched for credibility of government witness during closing argument at defendant's trial for being felon in possession of fire arm. Prosecutor used phrases such as "I think" "I would suggest to you" "I believe" and other object. unable rhetorical devices at least thirty times in opening twenty-six page summation when providing substantive commentary on credibility of witnesses and government's version of facts

Ground Twelve: Deprived of Evidence BRADY Violated Cont →

U.S. v Washington 263 F Supp 2d 413

Formerly 92K 268 (5)

To extent that prosecutor knows of material Evidence
Favorable to defendant in criminal prosecution
Government has due process obligation to disclose
that evidence to defendant (Deprived Video tape)

U.S. C.A. Const Amends

110K 700(4)K Impeaching Evidence

Impeachment evidence suppressed by government
will be considered material as required to support
claim of Brady violation, if witness whose testimony
is attacked supplied only evidence linking defendant
to crime or where likely impact on witness's
credibility would have undermined critical element
of prosecution's case (I WAS deprived of the Video tape)

Wherefore: for the following ongoing reason
I request the Courts immediate Belief

Date 5-23-07

Respectfully Submitted
Bunce Waples
Bruce Waples
PRU-SE

IMBire L. Waples

SBI# 170369 UNIT 17

DELAWARE CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DELAWARE 19977

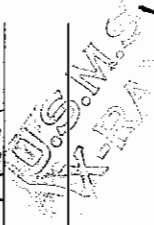


Office of the Clerk

United States District Court

844 N. King Street Lock Box 18

Wilmington Delaware 19801-3570



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FOR THE DISTRICT of Delaware

Bruce L. Waples

Petitioner

v.

Thomas Carroll

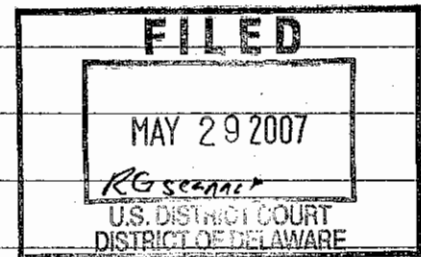
Warden, and Attorney

General of the State

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Respondents.

Civil Action No. 07-200-GMS



STATEMENT of Conviction

1. Bruce L. Waples on or about the 30th of Oct 2006 was indicted By the Grand jury in violation of Title 11, §1254 Assault in a detention facility
2. Bruce L. Waples on or about the 28th of Feb 2007 went to trial By jury
3. Bruce L. Waples on or about the 1st of Mar 2007 WAS found guilty by jury
4. Bruce L. Waples on or about the 1st of Mar, 2007 was sentence By Judge E. Scott Bradley for Title 11 §1254 Assault in a detention facility to two years level 5 min. max. (CASE NO# 0610029325)

Respectfully Submitted
Bruce Waples

DATE: 5-23-07

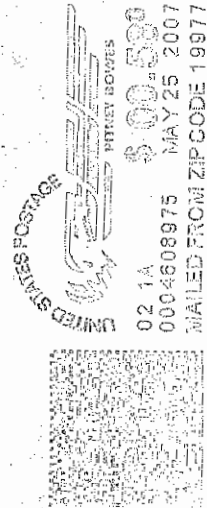
1/M Bruce L. Waples

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